

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

SENATE BILL 426

By: Leewright

AS INTRODUCED

An Act relating to used tires; amending 27A O.S. 2011, Sections 2-11-401.1, 2-11-401.2, 2-11-401.4, as amended by Section 1, Chapter 287, O.S.L. 2014, 2-11-401.5, as amended by Section 2, Chapter 287, O.S.L. 2014 and Section 2-11-401.7 (27A O.S. Supp. 2016, Sections 2-11-401.4 and 2-11-401.5), which relate to definitions, used tire fees, allocation of Used Tire Recycling Indemnity Fund, excess monies accruing to the Used Tire Recycling Indemnity Fund, and unlawful acts; defining terms; modifying terms; modifying fee schedule for certain tires; implementing fee for certain vehicles; removing requirement for Department to maintain list of tires subject to fees; eliminating certain exemptions for certain vehicles; expanding eligible Used Tire Recycling Indemnity Fund expenditures; removing requirement for used tire recycling facilities to collect and transport certain tires; excluding certain monies from being dispersed from Used Tire Recycling Indemnity Fund; updating language; specifying compensation rate for certain tires; instructing certain used tire recycling and TDF facilities to report and certify number of tires; specifying compensable tasks; conforming language; modifying list of certain reimbursements to Department of Environmental Quality; modifying list of prohibited acts; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 27A O.S. 2011, Section 2-11-401.1,
is amended to read as follows:

1 Section 2-11-401.1. As used in the Oklahoma Used Tire Recycling
2 Act:

3 1. "Automotive dismantler and parts recycler" means the same as
4 defined in Section 591.2 of Title 47 of the Oklahoma Statutes;

5 2. "Commission" means the Oklahoma Tax Commission;

6 3. "Crumb rubber" means fine particles of vulcanized rubber
7 resulting from mechanical or cryogenic size reduction of used tires;

8 4. "Department" means the Department of Environmental Quality;

9 5. "Erosion control project" means a project involving the
10 utilization of used tires for erosion control, bank stabilization or
11 other conservation project;

12 6. "Fund" means the Used Tire Recycling Indemnity Fund;

13 7. "Motorcycle" means a motor vehicle of a type defined in
14 Section 1-135 of Title 47 of the Oklahoma Statutes;

15 8. "Motor-driven cycle" means a motor vehicle of a type defined
16 in Section 1-136 of Title 47 of the Oklahoma Statutes;

17 9. "Motorized bicycle" means a motor vehicle of a type defined
18 in Section 1-136.1 of Title 47 of the Oklahoma Statutes;

19 10. "Motor vehicle" means the same as defined in Section 1-134
20 of Title 47 of the Oklahoma Statutes;

21 11. "Priority cleanup list" means a list, created and
22 maintained by the Department, of:

- 23 a. unpermitted dumps which did not exist when the owner
24 took possession of the property where the tires are

1 located, and were created without the consent of or
2 benefit to the owner of the property, and

3 b. such other tire dumps designated by the Department
4 pursuant to Section 2-11-401.6 of this title;

5 12. "Reusable tire" means a tire that has been previously used
6 on a vehicle, not currently mounted on a vehicle, but can be legally
7 placed into service for vehicle use in Oklahoma;

8 13. "Semitrailer" means the same as defined in Section 1-162 of
9 Title 47 of the Oklahoma Statutes;

10 14. "Tire" means any solid or air-filled covering for motor
11 vehicle wheels;

12 ~~13.~~ 15. "Tire dealer" means any person engaged in the business
13 of selling new and used tires to final consumers, not for resale;

14 ~~14.~~ 16. "Tire-derived fuel facility" or "TDF facility" means a
15 facility that uses processed tires or whole used tires for energy or
16 fuel recovery;

17 ~~15.~~ 17. "Trailer" means the same as defined in Section 1-180 of
18 Title 47 of the Oklahoma Statutes;

19 18. "Used tire recycling facility" means any place which is
20 permitted as a solid waste disposal site, in accordance with the
21 Oklahoma Solid Waste Management Act, at which used tires are
22 processed;

1 ~~16.~~ 19. "Used tire processing" means altering the form of whole
2 used tires by shredding, chipping, or other method approved by the
3 Department, except baling and pyrolysis; ~~and~~

4 ~~17.~~ 20. "Used tire" means an unprocessed whole tire or tire
5 part that can no longer be used for its ~~original~~ originally intended
6 purpose but can be beneficially reused as approved by the
7 Department. Any used tire collected in accordance with the
8 requirements of the Oklahoma Used Tire Recycling Act is not
9 considered to be discarded. A tire that can be used, reused or
10 legally modified to be reused for its original intended purpose
11 shall not be a used tire; and

12 21. "Vehicle" means the same as defined in Section 1-186 of
13 Title 47 of the Oklahoma Statutes.

14 SECTION 2. AMENDATORY 27A O.S. 2011, Section 2-11-401.2,
15 is amended to read as follows:

16 Section 2-11-401.2. A. 1. Except as otherwise provided by
17 this section, the following assessments shall be made for tires for
18 use on ~~motor~~ vehicles:

19 a. at the time any tire:

20 (1) with a rim diameter of less than or equal to
21 nineteen and one-half (19 1/2) inches is sold by
22 a tire dealer, there shall be assessed a used
23 tire recycling fee of Two Dollars and fifty cents
24 (\$2.50) per tire,

1 (2) with a rim diameter greater than nineteen and
2 one-half (19 1/2) inches is sold by a tire
3 dealer, there shall be assessed a used tire
4 recycling fee of Three Dollars and fifty cents
5 (\$3.50) per tire, and

6 (3) is sold by a tire dealer for use on a motorcycle,
7 motor-driven cycle or motorized bicycle, there
8 shall be assessed a used tire recycling fee of
9 One Dollar (\$1.00) per tire,

10 b. at any time a ~~motor~~ vehicle with a tire rim diameter
11 of less than or equal to nineteen and one-half (19
12 1/2) inches is first registered in this state, there
13 shall be assessed a used tire recycling fee of Two
14 Dollars and fifty cents (\$2.50) per tire, except as
15 otherwise provided by subparagraph d, e and f of this
16 paragraph,

17 c. at any time a ~~motor~~ vehicle with a tire rim diameter
18 of greater than nineteen and one-half (19 1/2) inches
19 is first registered in this state, there shall be
20 assessed a used tire recycling fee of Three Dollars
21 and fifty cents (\$3.50) per tire, except as otherwise
22 provided by ~~subparagraph~~ subparagraphs d, e and f of
23 this paragraph, and
24

d. at any time a motorcycle, motor-driven cycle or motorized bicycle is first registered in this state, there shall be assessed a used tire recycling fee of One Dollar (\$1.00) per tire,

e. at the time a motor vehicle is first registered in this state under the provisions of Section 1120 of Title 47 of the Oklahoma Statutes, there shall be assessed a used tire recycling fee of Five Dollars (\$5.00), and

f. at the time a semitrailer or trailer is first registered in this state under the provisions of Section 1120 of Title 47 of the Oklahoma Statutes, there shall be assessed a used tire recycling fee of Three Dollars (\$3.00).

~~2. Motor vehicles registered pursuant to Section 1120 of Title 47 of the Oklahoma Statutes shall be exempt from the provisions of this subsection.~~

~~3.~~ 2. No fee shall be assessed by a tire dealer for used tires or retreaded tires for which the tire dealer can document that the recycling fee has been previously paid.

~~4.~~ 3. All-terrain vehicles and off-road motorcycles registered pursuant to the provisions of Section 1132 of Title 47 of the Oklahoma Statutes shall be exempt from the provisions of this section.

1 B. 1. ~~Except as otherwise provided by this section, beginning~~
2 ~~July 1, 2010, tires used on implements of husbandry and agricultural~~
3 ~~equipment that are not more than fourteen (14) inches wide and~~
4 ~~forty-four (44) inches in diameter shall be assessed a used tire~~
5 ~~recycling fee of five cents (\$0.05) per pound of the weight of the~~
6 ~~tire, with a minimum fee of Two Dollars and fifty cents (\$2.50) per~~
7 ~~tire. Beginning July 1, 2013, tires used on implements of husbandry~~
8 ~~and agricultural equipment that are any size shall be assessed a~~
9 ~~used tire recycling fee of five cents (\$0.05) per pound of the~~
10 ~~weight of the tire, with a minimum fee of Two Dollars and fifty~~
11 ~~cents (\$2.50) per tire~~ For tires used on implements of husbandry and
12 agricultural equipment with a rim diameter of less than or equal to
13 nineteen and one-half (19 1/2) inches and that are less than thirty
14 (30) inches in total diameter, there shall be assessed a used tire
15 recycling fee of Two Dollars and Fifty cents (\$2.50) per tire.

16 2. ~~The Department shall maintain a list of agricultural tire~~
17 ~~weights for tires subject to the assessment and make that list~~
18 ~~available to tire dealers upon request~~ For tire used on implements
19 of husbandry and agricultural equipment with a rim diameter of
20 greater than nineteen and one-half (19 1/2) inches and that are less
21 than thirty (30) inches in total diameter, there shall be assessed a
22 used tire recycling fee of Three Dollars and Fifty cents (\$3.50) per
23 tire.

1 3. ~~No fee shall be assessed by a tire dealer if the customer~~
2 ~~retains the used agricultural tire for use on a farm or ranch. For~~
3 tires used on implements of husbandry and agricultural equipment
4 that are greater than thirty (30) inches in total diameter and less
5 than or equal to forty-four (44) inches in total diameter, there
6 shall be assessed a used tire recycling fee of Eight Dollars (\$8.00)
7 per tire.

8 4. For tires used on implements of husbandry and agricultural
9 equipment that are greater than forty-four (44) inches in total
10 diameter and less than or equal to seventy-two (72) inches in total
11 diameter and not more than thirty (30) inches wide, there shall be
12 assessed a used tire recycling fee of Sixteen Dollars (\$16.00) per
13 tire.

14 4. 5. A tire dealer may pay the assessed fee for any used
15 agricultural tire in current inventory and include that tire in the
16 used tire recycling program.

17 C. 1. The tire dealer and motor license agent shall remit such
18 fee to the Oklahoma Tax Commission in the same manner as provided by
19 Section 1365 of Title 68 of the Oklahoma Statutes.

20 2. Except as otherwise provided by this section, the tire
21 dealer shall remit to the Tax Commission ninety-seven and three-
22 quarters percent (97.75%) of the fee due pursuant to this section at
23 the time of filing any report as required by the Tax Commission.
24

1 3. Motor license agents shall remit ~~all but One Dollar (\$1.00)~~
2 ninety percent (90%) of the fee assessed on each vehicle registered.

3 4. Failure to remit the fee at the time of filing the returns
4 shall cause the fee to become delinquent. If the fee becomes
5 delinquent the tire dealer or motor license agent forfeits any claim
6 to the discount authorized by this section and shall remit to the
7 Tax Commission one hundred percent (100%) of the amount of the fee
8 due plus any penalty due.

9 D. If the fee imposed or levied by subsection A of this
10 section, or any part of such amount, is not paid before the fee
11 becomes delinquent, there shall be collected on the total delinquent
12 fee interest at the rate of one and one-quarter percent (1 1/4%) per
13 month from the date of the delinquency until paid.

14 E. If any fee due under subsection A of this section, or any
15 part thereof, is not paid within fifteen (15) days after the fee
16 becomes delinquent, a penalty of ten percent (10%) on the total
17 amount of fee due and delinquent shall be added and paid.

18 F. All penalties or interest imposed by this section shall be
19 recoverable by the Tax Commission as a part of the fee imposed and
20 all penalties and interest shall be apportioned the same as the fee
21 on which the penalties or interest are collected.

22 SECTION 3. AMENDATORY 27A O.S. 2011, Section 2-11-401.4,
23 as amended by Section 1, Chapter 287, O.S.L. 2014 (27A O.S. Supp.
24 2016, Section 2-11-401.4), is amended to read as follows:

1 Section 2-11-401.4. A. Compensation to used tire facilities
2 and tire-derived fuel or TDF facilities pursuant to this section
3 shall be limited to facilities located in Oklahoma. Compensation
4 for used tire activities pursuant to this section shall be limited
5 to used tires from Oklahoma. A used tire recycling facility or
6 tire-derived fuel or TDF facility may transport and deliver used
7 tires collected from Oklahoma to an out-of-state used tire recycling
8 facility or TDF facility but shall not be eligible for compensation
9 from the Used Tire Recycling Indemnity Fund for those used tires.
10 To be eligible, applicants for compensation shall be in compliance
11 with the Oklahoma Used Tire Recycling Act.

12 B. The monies accruing annually to the Used Tire Recycling
13 Indemnity Fund shall be allocated first to the Department of
14 Environmental Quality Revolving Fund, to be used for implementing
15 applicable requirements related to the control of mobile and area
16 sources of air emissions, for monitoring and modeling the impacts on
17 Oklahoma of air pollution from other states, ~~and~~ for implementing
18 and enforcing other applicable air pollution control requirements or
19 for other environmental programs or projects. The amount of money
20 allocated for this purpose shall be twenty-eight percent (28%) of
21 the funds produced by the two-dollar-and-fifty-cent per tire fee
22 assessed pursuant to division (1) of subparagraph a of paragraph 1
23 of subsection A of Section 2-11-401.2 of this title and subparagraph
24 b of paragraph 1 of subsection A of Section 2-11-401.2 of this

1 title. After this allocation is deducted, the balance of the monies
2 shall be allocated as follows:

3 1. Two and one-fourth percent (2.25%) to the Oklahoma Tax
4 Commission and five and three-fourths percent (5.75%) to the
5 Department of Environmental Quality for the purpose of administering
6 the requirements of the Oklahoma Used Tire Recycling Act; and

7 2. An amount not to exceed Fifty Thousand Dollars (\$50,000.00)
8 per audit to the State Auditor and Inspector for the purpose of
9 conducting audits of the Oklahoma Used Tire Recycling Program
10 pursuant to Section 2-11-401.6 of this title.

11 C. After the allocations under subsection B of this section are
12 made, the balance of monies in the Fund shall be available for
13 compensation pursuant to the provisions of the Oklahoma Used Tire
14 Recycling Act as follows:

15 1. Compensation to used tire facilities for used tire
16 processing, at the rate of Fifty-four Dollars (\$54.00) per ton of
17 processed tire material. For compensation the following conditions
18 shall apply:

19 a. facilities that process used tires by altering the
20 form of the used tires but do not produce crumb rubber
21 shall not receive compensation until the facility
22 documents the sale and movement of the processed used
23 tire material off-site to a third party,

- 1 b. facilities shall report and certify used tire
2 processing activity in terms of weight. The facility
3 shall by sworn affidavit provide to the Department
4 sufficient information to verify that the facility has
5 processed used tires and sold processed used tires for
6 actual recycling or reuse in accordance with the
7 purposes of the Oklahoma Used Tire Recycling Act, and
8 c. to be eligible for compensation, a facility shall not
9 have accumulated more processed material than the
10 amount for which the facility has provided financial
11 assurance under its solid waste permit or the amount
12 accumulated from three (3) years of operation,
13 whichever is less;

- 14 2. a. Compensation to used tire recycling facilities or TDF
15 facilities at the rate of Fifty-three Dollars (\$53.00)
16 per ton of whole used tires for the collection and
17 transportation of used tires from Oklahoma tire
18 dealers, automotive dismantlers and parts recyclers,
19 solid waste landfill sites, and dumps certified by the
20 Department priority cleanup list, and delivering the
21 tires to a used tire recycling facility or TDF
22 facility. The collection and transportation of used
23 tires shall be provided by the used tire recycling
24 facility or TDF facility at no additional cost to the

1 tire dealer or automotive dismantler and parts
2 recycler or to the Fund. The used tire recycling
3 facility or TDF facility shall collect from any
4 location at which there are at least three hundred
5 used tires.

6 b. Compensation under this paragraph shall not be payable
7 until the used tires have been actually processed
8 according to the solid waste permit for the facility
9 or actually used for energy or fuel recovery. A TDF
10 facility that collects and transports whole used tires
11 shall be eligible for compensation under this
12 paragraph only for those whole used tires consumed by
13 that facility.

14 c. No tire dealer shall charge any customer any
15 additional fee for the management, recycling, or
16 disposal of any used tire upon which the used tire
17 recycling fee has been remitted to the Tax Commission.
18 For customers who choose not to leave a used tire upon
19 which the used tire recycling fee has been remitted to
20 the Tax Commission, the tire dealer shall issue a
21 receipt which entitles the customer to deliver the
22 used tire to the dealer at a later date.

1 d. To be eligible for compensation pursuant to this
2 paragraph, the used tire recycling facility or TDF
3 facility shall:

4 (1) demonstrate to the satisfaction of the Department
5 that the facility is regularly engaged in the
6 collection, transportation and delivery of used
7 tires to a used tire recycling facility or to a
8 TDF facility, on a statewide basis, and from each
9 county of the state,

10 (2) provide documentation to the Department, signed
11 by a dealer at the time of collection, which
12 certifies remittance of appropriate fees to the
13 Oklahoma Tax Commission as a participating tire
14 dealer pursuant to the provisions of the Oklahoma
15 Used Tire Recycling Act, and

16 (3) annually demonstrate that at least three to six
17 percent (3-6%) of the tires were collected from
18 tire dumps or landfills on the Department
19 priority cleanup list or community-wide cleanup
20 events approved by the Department. The
21 Department is authorized to determine
22 periodically the applicable percentage within the
23 specified range set forth in this division based
24

1 on the number of tires remaining in illegal dumps
2 and available funding.

3 e. In lieu of proof of remitted tire recycling fees, the
4 used tire recycling facility or TDF facility shall
5 accept proof of purchase of a salvage vehicle
6 registered in Oklahoma by an automotive dismantler and
7 parts recycler, licensed pursuant to the Automotive
8 Dismantlers and Parts Recycler Act, for the collection
9 and transportation of up to five used tires per
10 salvage vehicle purchased on or after January 1, 1996.

11 ~~f. Beginning July 1, 2010, a used tire recycling facility~~
12 ~~or TDF facility shall be required to collect and~~
13 ~~transport tires used on implements of husbandry and~~
14 ~~agricultural equipment that are not more than fourteen~~
15 ~~(14) inches wide and forty-four (44) inches in~~
16 ~~diameter. Beginning July 1, 2013, a used tire~~
17 ~~recycling facility or TDF facility shall be required~~
18 ~~to collect and transport tires used on implements of~~
19 ~~husbandry and agricultural equipment that are any~~
20 ~~size;~~

21 3. a. Compensation to a person, corporation or other legal
22 entity who has obtained a permit or other
23 authorization from the United States Army Corps of
24 Engineers or a local Conservation District to provide

1 services for erosion control projects. Compensation
2 shall be at the rate of Two Dollars and eighty cents
3 (\$2.80) per tire for used tires having a tire rim
4 diameter of greater than seventeen and one-half (17
5 1/2) inches, and eighty cents (\$0.80) per tire for
6 tires having a rim diameter less than or equal to
7 seventeen and one-half (17 1/2) inches.

8 b. Reimbursement under this paragraph shall be subject to
9 the following:

- 10 (1) the applicant for reimbursement collects or
11 provides for the collection and utilization of
12 used tires in an erosion control project in
13 Oklahoma in accordance with a written plan
14 approved by the United States Army Corps of
15 Engineers or by a local Conservation District,
- 16 (2) the used tires are collected and transported to
17 the site of the erosion control project,
- 18 (3) the site landowner agrees to plant trees or other
19 suitable vegetation in accordance with a planting
20 plan developed in conjunction with the Division
21 of Forestry of the Oklahoma Department of
22 Agriculture, Food, and Forestry,
- 23 (4) the applicant reports and certifies the number of
24 used tires utilized. The applicant shall by

1 sworn affidavit provide to the Department
2 sufficient information to verify that the
3 applicant has utilized the tires in accordance
4 with the purposes of the Oklahoma Used Tire
5 Recycling Act,

6 (5) the applicant annually demonstrates that at least
7 three to six percent (3-6%) of the tires utilized
8 by the applicant for which compensation is
9 requested were collected from tire dumps or
10 landfills on the Department priority cleanup list
11 or community-wide cleanup events approved by the
12 Department. The Department is authorized to
13 determine periodically the applicable percentage
14 within the specified range as set forth in this
15 division based on the number of tires remaining
16 in illegal dumps and available funding,

17 (6) the applicant demonstrates to the satisfaction of
18 the Department that the applicant is regularly
19 engaged in the collection, transportation and
20 delivery to erosion control projects of used
21 tires, on a statewide basis, and from each county
22 of the state, at no additional cost to the tire
23 dealer or automotive dismantler and parts
24 recycler or to the Fund, and

1 (7) the applicant provides documentation to the
2 Department, signed by a dealer at the time of
3 collection, which certifies remittance of
4 appropriate fees to the Oklahoma Tax Commission
5 as a participating tire dealer pursuant to the
6 provisions of the Oklahoma Used Tire Recycling
7 Act.

8 c. In lieu of proof of remitted tire recycling fees, the
9 applicant shall accept proof of purchase of a salvage
10 vehicle registered in Oklahoma by an automotive
11 dismantler and parts recycler, licensed pursuant to
12 the Automotive Dismantlers and Parts Recycler Act, for
13 the collection and transportation of up to five used
14 tires per salvage vehicle purchased on or after
15 January 1, 1996.

16 d. Compensation pursuant to this paragraph shall be
17 payable only for the tires collected and utilized in
18 accordance with the purposes of the Oklahoma Used Tire
19 Recycling Act and as authorized by the Department.
20 During the course of the erosion control project, the
21 Department may determine the amount of and authorize
22 partial compensation, as tires are utilized in
23 accordance with the written plan.
24

1 e. Any entity deemed eligible for reimbursement under the
2 provisions of this paragraph shall be liable for the
3 erosion control project for a period of five (5)
4 years. During the five-year period, if additional
5 cleanup or remediation of an erosion control project
6 is required due to failure or negligence on the part
7 of the original contractor, the original contractor
8 shall be responsible for cleanup costs and shall not
9 be eligible for any additional compensation from the
10 Fund for costs related to that erosion control
11 project;

12 4. a. Compensation to a unit of local or county government
13 that submits to the Department for approval a plan for
14 the use of baled used tires in an engineering project.
15 Compensation shall be at the rate of fifty cents
16 (\$0.50) per tire.

17 b. The plan shall be approved by the Department before
18 construction of the project begins.

19 c. Any unit of local or county government baling used
20 tires shall not accumulate more than fifty used tire
21 bales prior to beginning construction of an approved
22 project.

23 d. Used tires baled pursuant to this paragraph cannot be
24 obtained from tire manufacturers, retailers,

1 wholesalers, retreaders, or automotive dismantlers and
2 parts recyclers.

3 e. Any unit of local or county government authorized to
4 receive reimbursement for the use of baled used tires
5 in an engineering project shall report and certify
6 whole used tires by number. The governmental unit
7 shall by sworn affidavit provide sufficient
8 information to the Department to verify that the unit
9 has utilized the tires in accordance with the purposes
10 of the Oklahoma Used Tire Recycling Act; and

11 5. If the Fund contains insufficient funds in any month to
12 satisfy the eligible reimbursements under this subsection, the
13 Department shall determine the apportionment of payments to be made
14 among the qualified applicants under this subsection according to
15 the percentage of used tires processed, collected and transported,
16 or utilized.

17 D. 1. After the allocations under subsections B and C of this
18 section are made, any remaining monies in the Fund shall be
19 available for TDF facilities and used tire recycling facilities that
20 produce crumb rubber for compensation at the rate of Twenty-nine
21 Dollars (\$29.00) per ton of processed or used tires utilized for
22 energy or fuel recovery or the production of crumb rubber.

1 2. The production of crumb rubber shall be considered a
2 compensable event separate from and in addition to any compensation
3 for used tire processing under subsection C of this section.

4 3. TDF facilities and used tire recycling facilities authorized
5 to receive reimbursement under this subsection shall report and
6 certify tire material used by weight.

7 4. The facilities shall by sworn affidavit provide to the
8 Department sufficient information to verify that the facility has
9 used the tires in accordance with the purposes of the Oklahoma Used
10 Tire Recycling Act.

11 5. If the Fund contains insufficient funds in any month to
12 satisfy the eligible reimbursements under this subsection, the
13 Department shall determine the apportionment of payments to be made
14 among the qualified applicants according to the percentage of used
15 tires intended for energy or fuel recovery or the production of
16 crumb rubber.

17 E. 1. After the allocations under subsections B, C and D of
18 this section are made, any remaining monies in the Fund shall be
19 available for capital investment reimbursement to used tire
20 facilities and TDF facilities for the purchase of equipment
21 necessary to utilize used tires. Only equipment purchased on or
22 after January 1, 1995, shall be eligible. The facilities are
23 eligible for compensation at a rate of Twenty Dollars (\$20.00) per
24 ton of used tires used. Total reimbursement shall not exceed one

1 hundred percent (100%) of the capital investment in eligible
2 equipment. The facilities may apply for compensation monthly to the
3 Department of Environmental Quality and shall supply any information
4 required by the Department.

5 2. If the Fund contains insufficient funds in any month to
6 satisfy the eligible reimbursements under this subsection, the
7 Department shall determine the apportionment of payments to be made
8 among the qualified applicants.

9 F. After the allocations under subsections B, C, D and E of
10 this section are made, any remaining monies in the Fund, excluding
11 monies collected pursuant to paragraphs 3 and 4 of subsection B of
12 Section 2-11-401.2 of this title, shall be disbursed as additional
13 compensation to used tire recycling facilities or TDF facilities for
14 the remediation of dumps certified by the Department and delivering
15 the tires to a used tire recycling facility or a TDF facility. The
16 Department shall determine additional compensation made to qualified
17 applicants under this subsection based on cleanup feasibility of the
18 dump. ~~By July 1, 2012, the~~ The Board shall promulgate rules
19 establishing unit costs for compensation based on the remediation
20 feasibility of the tire dumps. The Department may solicit bids for
21 the remediation of tire dumps if no used tire recycling facilities
22 or TDF facilities agree to remediate a priority tire dump authorized
23 by the Department or if the Department determines the qualified
24

1 applicant has not remediated the tires in the tire dump to meet
2 reference conditions of comparable property in the immediate area.

3 G. 1. Used tire recycling facilities and TDF facilities that
4 collect, transport and process tires used on implements of husbandry
5 and agricultural equipment that are greater than thirty (30) inches
6 in total diameter and less than or equal to forty-four (44) inches
7 in total diameter shall be eligible for compensation at a rate of
8 Eight Dollars (\$8.00) per tire.

9 a. Collection, transportation and processing of tires
10 under this paragraph shall be considered a compensable
11 event separate from and in addition to any
12 compensation under subsection C of this section.

13 b. Used tire recycling facilities and TDF facilities
14 authorized to receive reimbursement under this
15 paragraph shall report and certify the number of tires
16 collected and transported.

17 2. Used tire recycling facilities and TDF facilities that
18 collect, transport and process tires used on implements of husbandry
19 and agricultural equipment that are greater than forty-four (44)
20 inches in total diameter and less than or equal to seventy-two (72)
21 inches in total diameter and not more than thirty (30) inches wide,
22 shall be eligible for compensation at the rate of Sixteen Dollars
23 (\$16.00) per tire.

- 1 a. Collection, transportation and processing of tires
2 under this paragraph shall be considered a compensable
3 event separate from and in addition to any
4 compensation under subsection C of this section.
- 5 b. Used tire recycling facilities and TDF facilities
6 authorized to receive reimbursement under this
7 paragraph shall report and certify the number of tires
8 collected and transported.

9 H. Used tire recycling facilities, TDF facilities, or persons,
10 corporations or other legal entities authorized by the provisions of
11 the Oklahoma Used Tire Recycling Act to receive reimbursement shall
12 demonstrate that the facilities or legal entities have successfully
13 complied with the requirements of the Oklahoma Used Tire Recycling
14 Act through the filing of appropriate applications, reports, and
15 other documentation that may be required by the Tax Commission and
16 the Department.

17 SECTION 4. AMENDATORY 27A O.S. 2011, Section 2-11-401.5,
18 as amended by Section 2, Chapter 287, O.S.L. 2014 (27A O.S. Supp.
19 2016, Section 2-11-401.5), is amended to read as follows:

20 Section 2-11-401.5. To the extent that monies accruing to the
21 Used Tire Recycling Indemnity Fund exceed the monies needed for the
22 purposes previously specified in the Oklahoma Used Tire Recycling
23 Act, the Department of Environmental Quality may be reimbursed from
24 the remaining funds for necessary costs associated with remediation

1 ~~of~~ or other necessary actions at sites at which used tires or other
2 wastes ~~incidental to the used tires~~ present a threat to human health
3 or the environment, or for projects to increase market demand for
4 products made from Oklahoma used tires. The Solid Waste Management
5 Advisory Council shall recommend and the Environmental Quality Board
6 shall adopt rules governing the types of market development projects
7 that may qualify for reimbursement. To the extent possible, the
8 rules shall favor and the Department shall prioritize projects with
9 the greatest potential to benefit schools, communities and local
10 governments. Upon its receipt of documentation from the Department
11 showing expenditures relating to the remediation of such sites or
12 market development projects, the Tax Commission shall reimburse the
13 Department for its documented expenditures.

14 SECTION 5. AMENDATORY 27A O.S. 2011, Section 2-11-401.7,
15 is amended to read as follows:

16 Section 2-11-401.7. A. Except as otherwise provided by this
17 section, it shall be unlawful for any person to:

18 1. Own or operate a site used for the storage, collection or
19 disposal of more than fifty used tires except at a site or facility
20 permitted or approved by the Department of Environmental Quality to
21 accept used tires. The provisions of this paragraph shall not apply
22 to tire manufacturers, retailers, wholesalers and retreaders who
23 store a total of no more than two thousand five hundred ~~or fewer~~
24

1 (2,500) used tires at their place of business or ~~designated~~ an
2 ancillary off-premises storage site approved by the Department;

3 2. Dispose of used tires at any site or facility other than a
4 site or facility for which a permit has been issued, or which has
5 been otherwise authorized by the Department;

6 3. Knowingly transport or knowingly allow used tires under the
7 control or in the possession of the person to be transported to an
8 unpermitted or unapproved site or facility; or

9 4. Remove more than ten (10) used tires or reusable tires from
10 the possession of the dealer unless the dealer provides a manifest
11 form, approved by the Department, which documents the removal and
12 approved disposition or sale of the tires and which accompanies the
13 tires in transport. Dealers, haulers, and used tire recycling
14 facilities shall keep copies of manifests available for inspection
15 for five (5) years.

16 5. Sell any tire without collecting and remitting appropriate
17 fees to the Tax Commission in accordance with Section 2-11-401.2 of
18 this title.

19 B. The provisions of subsection A of this section shall not
20 apply to the use of used tires for agricultural purposes as
21 recognized by the Oklahoma Department of Agriculture, Food, and
22 Forestry.

23 C. The provisions of paragraphs 2 and 3 of subsection A of this
24 section shall not be construed to prevent an individual from

1 disposing of used tires previously used by the individual as vehicle
2 or equipment tires if the disposal is upon property owned by the
3 individual and the disposal does not create a nuisance or pose a
4 hazard to the public health or environment.

5 D. The provisions of paragraphs 2 and 3 of subsection A of this
6 section shall not be construed to prevent a used tire recycling
7 facility or tire-derived fuel or TDF facility from transporting and
8 delivering used tires to an out-of-state used tire recycling
9 facility or TDF facility.

10 E. 1. Except as otherwise ordered by the court, if the
11 administrative enforcement process for a violation of an order
12 issued by the Department for remediation, corrective action or
13 cleanup of an illegal tire dump has been exhausted, the Department
14 or a representative of the Department, upon notice to the landowner
15 and an opportunity for the landowner to be heard on the issue, may
16 enter the property to clean up the tire dump.

17 2. The Department may initiate a court action to recover the
18 actual cost of cleanup, attorney fees, court costs, and all other
19 monies expended in connection with the cleanup.

20 3. The Department shall deposit any excess funds recovered
21 through such action into the Used Tire Recycling Indemnity Fund.

22 SECTION 6. This act shall become effective November 1, 2017.